

ASSEMBLY BILL

No. 434

Introduced by Assembly Member Logue

February 14, 2011

An act to amend Section 76104.6 of the Government Code, relating to county penalties.

LEGISLATIVE COUNSEL'S DIGEST

AB 434, as introduced, Logue. County penalties: forensic laboratories.

Existing law the DNA Fingerprint, Unresolved Crime and Innocence Protection Act, an initiative measure, requires an additional penalty of one dollar for every \$10 or part thereof to be levied in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, as specified. The act requires the county board of supervisors to establish in the county treasury a DNA Identification Fund, into which the collected penalties are to be deposited. The act specifies the purposes for which funds in the county's DNA Identification Fund may be used, including to reimburse local sheriff, police, district attorney, and regional state crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples, as specified. The act provides for its amendment by the Legislature if the amendments further the act and are consistent with its purposes to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and exonerating the innocent.

This bill would provide that, if authorized by a resolution of the board of supervisors, a local sheriff or police department, or the district attorney's office, may use funds remaining in the county's DNA

Identification Fund to reimburse a regional state crime laboratory for expenditures and administrative costs made or incurred in connection with the processing, analysis, and comparison of DNA crime scene samples and forensic identification samples, and testimony related to that analysis, as specified. The bill would declare that its provisions further the initiative act, and are consistent with its purposes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 76104.6 of the Government Code is
2 amended to read:

3 76104.6. (a) (1) Except as otherwise provided in this section,
4 for the purpose of implementing the DNA Fingerprint, Unsolved
5 Crime and Innocence Protection Act (Proposition 69), as approved
6 by the voters at the November 2, 2004, statewide general election,
7 there shall be levied an additional penalty of one dollar for every
8 ten dollars (\$10), or part of ten dollars (\$10), in each county upon
9 every fine, penalty, or forfeiture imposed and collected by the
10 courts for all criminal offenses, including all offenses involving a
11 violation of the Vehicle Code or a local ordinance adopted pursuant
12 to the Vehicle Code.

13 (2) The penalty imposed by this section shall be collected
14 together with and in the same manner as the amounts established
15 by Section 1464 of the Penal Code. The moneys shall be taken
16 from fines and forfeitures deposited with the county treasurer prior
17 to any division pursuant to Section 1463 of the Penal Code. The
18 board of supervisors shall establish in the county treasury a DNA
19 Identification Fund into which shall be deposited the moneys
20 collected pursuant to this section. The moneys of the fund shall
21 be allocated pursuant to subdivision (b).

22 (3) The additional penalty does not apply to the following:

23 (A) A restitution fine.

24 (B) A penalty authorized by Section 1464 of the Penal Code or
25 this chapter.

26 (C) A parking offense subject to Article 3 (commencing with
27 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

28 (D) The state surcharge authorized by Section 1465.7 of the
29 Penal Code.

(b) (1) The fund moneys described in subdivision (a), together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified herein.

(2) On the last day of each calendar quarter of the year specified in this subdivision, the county treasurer shall transfer fund moneys in the county's DNA Identification Fund to the Controller for credit to the state's DNA Identification Fund, which is hereby established in the State Treasury, as follows:

(A) In the first two calendar years following the effective date of this section, 70 percent of the amounts collected, including interest earned thereon.

(B) In the third calendar year following the effective date of this section, 50 percent of the amounts collected, including interest earned thereon.

(C) In the fourth calendar year following the effective date of this section and in each calendar year thereafter, 25 percent of the amounts collected, including interest earned thereon.

(3) Funds remaining in the county's DNA Identification Fund shall be used only ~~to~~ *for the following purposes:*

(A) *To reimburse local sheriff or other law enforcement agencies to collect for the collection of DNA specimens, samples, and print impressions pursuant to this chapter; for.*

(B) *For expenditures and administrative costs made or incurred to comply with the requirements of paragraph (5) of subdivision (b) of Section 298 of the Penal Code, including the procurement of equipment and software integral to confirming that a person qualifies for entry into the Department of Justice DNA and Forensic Identification Database and Data Bank Program; and to.*

(C) *To reimburse local sheriff, police, district attorney, and regional state crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples from cases in which DNA evidence would be useful in identifying or prosecuting suspects, including the procurement of*

1 equipment and software for the processing, analysis, tracking, and
2 storage of DNA crime scene samples from unsolved cases.

3 *(D) If authorized by a resolution of the board of supervisors,*
4 *and after the distributions provided in subparagraphs (A), (B),*
5 *and (C), a local sheriff or police department, or the district*
6 *attorney's office, may use remaining funds to reimburse a regional*
7 *state crime laboratory for expenditures and administrative costs*
8 *made or incurred in connection with the processing, analysis, and*
9 *comparison of DNA crime scene samples and forensic identification*
10 *samples, and testimony related to that analysis. This subparagraph*
11 *shall apply only to those counties that do not have a local public*
12 *law enforcement laboratory, and does not authorize any transfer*
13 *that will interfere with the operation of subparagraph (A).*

14 (4) The state's DNA Identification Fund shall be administered
15 by the Department of Justice. Funds in the state's DNA
16 Identification Fund, upon appropriation by the Legislature, shall
17 be used by the Attorney General only to support DNA testing in
18 the state and to offset the impacts of increased testing and shall be
19 allocated as follows:

20 (A) Of the amount transferred pursuant to subparagraph (A) of
21 paragraph (2) of subdivision (b), 90 percent to the Department of
22 Justice DNA Laboratory, first, to comply with the requirements
23 of Section 298.3 of the Penal Code and, second, for expenditures
24 and administrative costs made or incurred in connection with the
25 processing, analysis, tracking, and storage of DNA specimens and
26 samples including the procurement of equipment and software for
27 the processing, analysis, tracking, and storage of DNA samples
28 and specimens obtained pursuant to the DNA and Forensic
29 Identification Database and Data Bank Act of 1998, as amended
30 by Chapter 6 (commencing with Section 295) of Title 9 of Part 1
31 of the Penal Code, and 10 percent to the Department of Justice
32 Information Bureau Criminal History Unit for expenditures and
33 administrative costs that have been approved by the Chief of the
34 Department of Justice Bureau of Forensic Services made or
35 incurred to update equipment and software to facilitate compliance
36 with the requirements of subdivision (e) of Section 299.5 of the
37 Penal Code.

38 (B) Of the amount transferred pursuant to subparagraph (B) of
39 paragraph (2) of subdivision (b), funds shall be allocated by the
40 Department of Justice DNA Laboratory, first, to comply with the

1 requirements of Section 298.3 of the Penal Code and, second, for
2 expenditures and administrative costs made or incurred in
3 connection with the processing, analysis, tracking, and storage of
4 DNA specimens and samples including the procurement of
5 equipment and software for the processing, analysis, tracking, and
6 storage of DNA samples and specimens obtained pursuant to the
7 DNA and Forensic Identification Database and Data Bank Act of
8 1998, as amended.

9 (C) Of the amount transferred pursuant to subparagraph (C) of
10 paragraph (2) of subdivision (b), funds shall be allocated by the
11 Department of Justice to the DNA Laboratory to comply with the
12 requirements of Section 298.3 of the Penal Code and for
13 expenditures and administrative costs made or incurred in
14 connection with the processing, analysis, tracking, and storage of
15 DNA specimens and samples including the procurement of
16 equipment and software for the processing, analysis, tracking, and
17 storage of DNA samples and specimens obtained pursuant to the
18 DNA and Forensic Identification Database and Data Bank Act of
19 1998, as amended.

20 (c) On or before April 1 in the year following adoption of this
21 section, and annually thereafter, the board of supervisors of each
22 county shall submit a report to the Legislature and the Department
23 of Justice. The report shall include the total amount of fines
24 collected and allocated pursuant to this section, and the amounts
25 expended by the county for each program authorized pursuant to
26 paragraph (3) of subdivision (b). The Department of Justice shall
27 make the reports publicly available on the department's Internet
28 Web site.

29 (d) All requirements imposed on the Department of Justice
30 pursuant to the DNA Fingerprint, Unsolved Crime and Innocence
31 Protection Act are contingent upon the availability of funding and
32 are limited by revenue, on a fiscal year basis, received by the
33 Department of Justice pursuant to this section and any additional
34 appropriation approved by the Legislature for purposes related to
35 implementing this act.

36 (e) Upon approval of the DNA Fingerprint, Unsolved Crime
37 and Innocence Protection Act, the Legislature shall lend the
38 Department of Justice General Fund in the amount of seven million
39 dollars (\$7,000,000) for purposes of implementing the act. The
40 loan shall be repaid with interest calculated at the rate earned by

1 the Pooled Money Investment Account at the time the loan is made.
2 Principal and interest on the loan shall be repaid in full no later
3 than four years from the date the loan was made and shall be repaid
4 from revenue generated pursuant to this section.

5 (f) Notwithstanding any other ~~provision of law~~, the Controller
6 may use the state's DNA Identification Fund, created pursuant to
7 paragraph (2) of subdivision (b), for loans to the General Fund as
8 provided in Sections 16310 and 16381. Any such loan shall be
9 repaid from the General Fund with interest computed at 110 percent
10 of the Pooled Money Investment Account rate, with the interest
11 commencing to accrue on the date the loan is made from the fund.
12 This subdivision does not authorize any transfer that will interfere
13 with the carrying out of the object for which the state's DNA
14 Identification Fund was created.

15 SEC. 2. The Legislature hereby finds and declares that the
16 amendments made by this act to Section 76104.6 of the
17 Government Code further the DNA Fingerprint, Unresolved Crime
18 and Innocence Protection Act as enacted by the approval of
19 Proposition 69 at the November 3, 2004, general election, and is
20 consistent with the act's purposes.